

DEC 19 1991

District Director
Oklahoma City District Office

Assistant Chief Counsel (Corporate)

TIN: [REDACTED]

In a letter dated September 26, 1991, the referenced taxpayer requested a private letter ruling on a proposed transaction. Specifically, the taxpayer requested that the loss incurred from the proposed sale of stock described below would qualify for ordinary loss treatment under section 1244(a) of the Internal Revenue Code.

In form, [REDACTED] ("taxpayer") apparently purchased [REDACTED] shares of stock from a subchapter C corporation ("Corporation") in [REDACTED] for \$[REDACTED]. Corporation used this money to redeem the stock held by all the other shareholders. The taxpayer is contemplating the sale of this stock at a substantial loss and anticipated claiming ordinary loss treatment under section 1244(a) of the Code.

On November 25, 1991, this office notified the taxpayer's representative that the Service was adverse to issuing the ruling requested, citing the Tax Court case, Adams v. Commr., 74 T.C. 4 (1980). In Adams, the Tax Court denied section 1244 treatment to a shareholder who purchased stock from a corporation. The stock had previously been issued to another shareholder and had been redeemed by the corporation and retired as authorized but unissued stock. The stock did not qualify as section 1244 stock because the taxpayer failed to establish that the corporation received a new infusion of funds in exchange for the stock. The court emphasized that under its reading of the legislative history of section 1244, Congress enacted section 1244 to encourage the flow of additional funds to a corporation rather than the substitution of preexisting capital.

On December 12, 1991, the taxpayer's representative withdrew the ruling request. Because the taxpayer is under your jurisdiction, we are bringing this matter to your attention.

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If you have any questions or would like to discuss this matter, please contact Lesa Byrnes at (202 or FTS) 566-6212.

By: _____
Maura A. Sullivan
Chief, Branch 3